

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X
:
UNITED STATES OF AMERICA
:
- against -
:
HUI CHEN,
:
Defendant.
:
- - - - -X

CHIN, District Judge

Pursuant to Campusano v. United States, 442 F.3d 770 (2d Cir. 2006), the Court conducted an evidentiary hearing today on the issue of whether defendant Hui Chen asked her attorney, Roy Kulcsar, Esq., to file a notice of appeal on her behalf. The Court asked questions of Ms. Chen as well as Mr. Kulcsar, and a non-party witness who acted as an interpreter also testified.

As stated on the record, the Court finds that Ms. Chen did ask Mr. Kulcsar to file a notice of appeal; she made this request at a meeting with Mr. Kulcsar approximately three days after her sentencing; and reiterated it in a subsequent phone conversation with the interpreter in which she asked the interpreter to relay to Mr. Kulcsar her request that he file a notice of appeal. Although the phone call may have been made after the ten-day period, it was still within the period within which Ms. Chen could have made a timely motion for an extension of time to appeal.

Despite being asked by Ms. Chen to file a notice of appeal, Mr. Kulcsar did not do so. Pursuant to Campusano, this qualifies as per se ineffective assistance of counsel. 442 F.3d

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/1/08

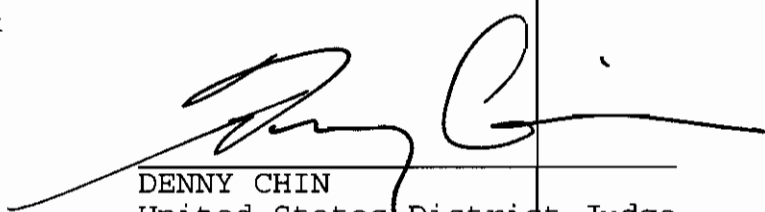
ORDER

S4 06 CR. 457 (DC)

at 773 (citing Roe v. Flores-Ortega, 528 U.S. 470, 477 (2000)).
Accordingly, defendant's July 2, 2008 letter is deemed a notice
of appeal and, pursuant to 28 U.S.C. § 2255 and Campusano, the
notice of appeal is hereby accepted for filing.

SO ORDERED.

Dated: New York, New York
August 1, 2008



DENNY CHIN
United States District Judge